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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,050	01/18/2002	Bernard Louis Dit Picard	5592	6146
6858	7590	12/20/2004	EXAMINER	
BREINER & BREINER 115 NORTH HENRY STREET P. O. BOX 19290 ALEXANDRIA, VA 22314			BOYD, JENNIFER A	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/018,050

**Applicant(s)**

LOUIS DIT PICARD, BERNARD

**Examiner**

Jennifer A Boyd

**Art Unit**

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. The Applicant's Amendments and Accompanying Remarks, filed September 23, 2004, have been entered and have been carefully considered. Claims 13 – 26 are pending. In view of Applicant's Arguments that Seidler does not teach that the layers have *fibers* of differing micronaire only materials of differing fineness, the Examiner withdraws the previously set forth rejection as detailed in paragraph 3 of the previous Office Action dated April 23, 2004. However, after an updated search, the invention as currently claimed is not found to be unpatentable for reasons herein below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

3. Claims 13 – 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerhartl et al. (US 5,480,699) in view of Louis Dit Picard (WO 00/76384 A1). Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15. Please supply a translation of the foreign priority papers to overcome the Louis Dit Picard (WO 00/76384 A1) reference.

Gerhartl is directed to a pad for applying liquid or semi-solid material pertaining to

Art Unit: 1771

hygiene, cosmetic and medicinal articles (Title and column 1, lines 10 – 15).

As to claim 13, Gerhartl teaches a pad having at least two plies, at least one layer being absorbent and both outer layers being compressed (column 1, lines 40 – 45). The two outer layers are equated to Applicant's "first outer layer" and "second outer layer". Gerhartl teaches that the pad can be made of cotton (column 2, lines 14 – 20).

As to claim 16, Gerhartl teaches that the pad can comprise three continuous card web faces having a total weight of approximately  $350 \text{ g/m}^2$  (column 2, lines 55 – 60). Therefore, the two outer layers, "first outer layer" and "second outer layer", would have a surface weight of *at least*  $8 \text{ g/m}^2$ .

As to claim 17, Gerhartl teaches that the pad can have a fully absorbent intermediate layer (column 1, lines 43 – 45), equated to Applicant's "core layer".

As to claim 18, Gerhartl teaches that the outer surfaces, or "first outer layer" and "second outer layer", is calendared with a waffle pattern. One of the surfaces has a very close pattern and the other has a very widely spaced pattern (column 2, lines 47 – 53).

As to claims 21 and 22, Gerhartl teaches that the outer surfaces are calendared (column 1, lines 63 – 65).

As to claim 24, Gerhartl teaches that the pad can be manufactured with known machines by hydrodynamic methods (column 2, lines 37 – 39). It is known in the art that hydrodynamic methods for creating composites involve water jets.

As to claims 23 and 25 - 26, Gerhartl teaches that at least one layer has a cosmetic or medically active ingredient (column 1, lines 55 – 58). Gerhartl suggests that one cosmetic

Art Unit: 1771

ingredient can be a cleansing cream (column 1, lines 50 – 55). It is known that a cosmetic cleansing cream would remove makeup.

As to claim 13, Gerhartl fails to teach that the “first outer layer” comprises fine fibers exhibiting a low micronaire value and the “second outer layer” exhibiting a micronaire value higher than the low micronaire value of the first layer.

Louis Dit Picard is directed to a hydrophilic cotton product comprising a soft surface and a scraping surface (Title) suitable for cosmetic pads (Abstract). Louis Dit Picard teaches that the first layer consists of fine fibers having a low micronaire value forming a first soft surface and the second layer consists of fibers having high micronaire value forming a scraping surface (Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to create a pad with two layers with the first layer having a low micronaire value and the second layer having a high micronaire value as suggested by Louis Dit Picard in the pad of Gerhartl motivated by the desire to create a pad with convenient and satisfactory buffering capabilities.

As to claims 14 – 15, 19 – 20 and 24, Gerhartl in view of Louis Dit Picard discloses the claimed invention except for that the first outer layer exhibits a micronaire value between 2 and 5 micrograms/inch and the second outer layer exhibits a micronaire value between 4 and 10 micrograms per inch, wherein the differential of micronaire values for the first outer layer and

Art Unit: 1771

the second outer layer is at least 1 microgram/inch as required by claim 14, the first outer layer exhibits a micronaire value between 2.8 and 4.2 micrograms/inch and a second outer layer exhibits a micronaire value between 5 and 8.5 micrograms/inch as required by claim 15, the spacing between the striations of the first outer layer is between 0.4 and 1.2 mm and the spacing between the striations of the second outer layer is between 1.2 and 3 mm as required by claim 19, the first outer layer comprises striations of mutual spacings between 0.4 and 1.2 mm and the second outer layer comprises striations in a sequence comprising several sets of striations that is between 0.4 and 1.2 mm and each set of striations is separated by another set of striations by a distance of between 1.2 and 4 mm as required by claim 20 and the water jets in the manufacturing line are mutually spaced apart by a distance that differs for the water jets used on the first outer layer and the second outer layer as required by claim 24. It should be noted that the micronaire value of the first and second outer layers, the differential between the micronaire values, the spacing of the striations and the spacing of the water jets are result effective variables. For example, as the micronaire value increases, the layer becomes more rigid and capable of acting like an abrasive. As the micronaire value decreases, the layer becomes more flexible and soft. As the spacing of the striations increase, the layer becomes less abrasive. As the spacing of the water jets increase, the spacing of the striations increase. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the first outer layer exhibits a micronaire value between 2 and 5 micrograms/inch and the second outer layer exhibits a micronaire value between 4 and 10 micrograms per inch, wherein the differential of micronaire values for the first outer layer and the second outer layer is at least 1 microgram/inch as required by claim 14, the first outer layer exhibits a micronaire value between 2.8 and 4.2

Art Unit: 1771

micrograms/inch and a second outer layer exhibits a micronaire value between 5 and 8.5 micrograms/inch as required by claim 15, the spacing between the striations of the first outer layer is between 0.4 and 1.2 mm and the spacing between the striations of the second outer layer is between 1.2 and 3 mm as required by claim 19, the first outer layer comprises striations of mutual spacings between 0.4 and 1.2 mm and the second outer layer comprises striations in a sequence comprising several sets of striations that is between 0.4 and 1.2 mm and each set of striations is separated by another set of striations by a distance of between 1.2 and 4 mm as required by claim 20 and the water jets in the manufacturing line are mutually spaced apart by a distance that differs for the water jets used on the first outer layer and the second outer layer as required by claim 24, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one would have been motivated to optimize the spacing between the striations of each layer and the spacing of the water jets when producing each layer to create an appropriately soft layer and durable, abrasive layer for pad for buffering.

Art Unit: 1771

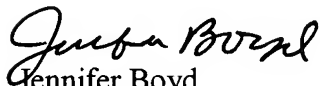
***Response to Arguments***


4. Applicant's arguments with respect to claims 13 - 26 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Boyd whose telephone number is 571-272-1473. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jennifer Boyd  
December 1, 2004

  
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SUPERVISORY PATENT EXAMINER  
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